

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RICKY VILLARREAL,

Plaintiff,

vs.

SUPERHEAT FGH SERVICES, INC.,

Defendant.

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§
§

Civil Action No. _____

INDEX OF MATTERS BEING FILED WITH NOTICE OF REMOVAL

Description

- a. All executed process in the case
- b. Pleadings asserting cause of action:
 - Plaintiff's Original Petition
 - Defendant's Answer
- c. All orders signed by the state judge (none)
- d. The docket sheet; and
- e. A list of all counsel of record, including addresses, telephone numbers and parties represented.



Notice of Service of Process

null / ALL
Transmittal Number: 21983620
Date Processed: 09/04/2020

Primary Contact: Shari Farrell
1797509 Alberta ULC
1463 Highway 21 RR 1
Kincardine, ON N2Z 2X3
CA

Entity:	Superheat FGH Services, Inc. Entity ID Number 3865432
Entity Served:	Superheat FGH Services Inc
Title of Action:	Ricky Villarreal vs. Superheat FGH Services, Inc.
Document(s) Type:	Citation/Petition
Nature of Action:	Wrongful Termination
Court/Agency:	Harris County District Court, TX
Case/Reference No:	202049513
Jurisdiction Served:	TX
Date Served on CSC:	09/03/2020
Answer or Appearance Due:	10:00 am Monday next following the expiration of 20 days after service
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Clayton D. Craighead 832-798-1184

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

RECEIPT NO: 895195 TRACKING NO: 73782896
EML

Plaintiff:
VILLARREAL, RICKY
vs.
Defendant:
SUPERHEAT FGH SERVICES INC

In The 164th
Judicial District Court of
Harris County, Texas
201 CAROLINE
Houston, Texas

CITATION CORPORATE

THE STATE OF TEXAS
County of Harris

**To: SUPERHEAT FGH SERVICES INC (A FOREIGN FOR-PROFIT CORPORATION) MAY BE SERVED
THROUGH ITS REGISTERED AGENT CORPORATION SERVICE COMPANY D/B/A CSC-LAWYERS
INCORPORATING SERVICE COMPANY
211 E 7TH STREET SUITE 620, AUSTIN TX 78701-3136**

Attached is a copy of: PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

This instrument was filed on August 18, 2020 in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your Attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration date of 20 days after you were served this citation and petition, a default judgment may be taken against you.

This citation was issued on September 2, 2020, under my hand and seal of said court.

Issued at the request of:

CRAIGHEAD, CLAYTON DIXON
440 LOUISIANA, SUITE 900
HOUSTON, TX 77002
832-798-1184
Bar Number: 24065092



Marilyn Burgess

Marilyn Burgess, District Clerk

Harris County, Texas
201 CAROLINE Houston Texas 77002
(PO Box 4651, Houston, Texas 77210)

Generated By: CAROLINA SALGADO

EML

Tracking Number: 73782896

CAUSE NUMBER: 202049513

PLAINTIFF: VILLARREAL, RICKY

vs.

DEFENDANT: SUPERHEAT FGH SERVICES INC

In the 164th

Judicial District Court of

Harris County, Texas

OFFICER - AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock ____ M. on the _____ day of _____, 20____. Executed at

(Address) _____
in _____

_____ County at o'clock ____ M. On the _____ day of _____, 20____, by

Delivering to _____ defendant, in person, a true copy of this Citation together with the accompanying _____ copy (ies) of the «Attachment». Petition attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____, 20__.

Fees \$ _____

Affiant

By _____
Deputy

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, On this _____ day of _____, 20__.

Notary Public

4. Both jurisdiction and venue are proper in Harris County, Texas pursuant to the Texas Civil Practice and Remedies Code. Venue is proper because a substantial part of the

events giving rise to this cause of action occurred in Harris County. *See* Tex. Civ. Prac. & Rem. Code § 15.002(a)(1). Additionally, Defendant has its principal place of business in Texas in Houston, Harris County. *See* Tex. Civ. Prac. & Rem. Code § 15.002(a)(3). This Court has jurisdiction over the controversy because the damages are within the jurisdictional limits of the Court.

TRCP 47 CLAIM STATEMENT

5. Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000. Tex. R. Civ. P. 47(c).

CONDITIONS PRECEDENT AND EXHAUSTION OF ADMINISTRATIVE REMEDIES

6. Plaintiff timely filed a charge of discrimination with the EEOC and the Texas Workforce Commission and has filed suit within the time period proscribed by the EEOC.

7. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

BACKGROUND

8. Villarreal was employed by Superheat since October 2015.

9. Villarreal's performance at Superheat was excellent.

10. Superheat agreed to pay 40% of an MBA degree program he was enrolled in.

11. In October 2016, Superheat gave Villarreal an 18% increase in pay.

12. In 2017, Superheat gave Villarreal a 10% increase in pay.

13. In the summer of 2018, nearly 2 months prior to the completion of the MBA program, VP Joey MacArthur approached Villarreal about becoming Superheat's "National Human Resources guy".

14. They discussed the opportunity on multiple occasions including outings to Huntington Beach, CA, Houston, TX, and Lake Charles, LA.

15. Villarreal's performance was so valued that when MacArthur learned that Villarreal's favoriting sports team was the Dallas Cowboys, he told Villarreal to get tickets and approved an expense of over \$5,000 for football tickets.

16. In January 2019, Andrew Goodrich, a trusted subordinate of MacArthur, was relocated to Houston and placed in a lead Area Manager role. Days after his arrival, Villarreal's assistant, Monica Sanchez, reported a sexual harassment claim to Villarreal concerning Goodrich. Sanchez told Villarreal that Goodrich walked up behind her and began kissing her on the back of her neck. This was witnessed and corroborated by another employee as well, Oscar Gallegos.

17. Villarreal then reported the incident to his supervisor, Jamie Cox, who in turn told him to talk to MacArthur about the matter in private.

18. MacArthur wanted to brush the whole episode aside and told me to not get the HR Manager, Becky Fair, involved. He told me that he would take care of it himself.

19. When it became obvious that MacArthur did nothing about it, I decided to report it to Fair. She informed me that she would conduct an investigation and also share the report with her supervisor, Sheri Farrell.

20. HR gathered statements from Monica Sanchez and Oscar Gallegos on or about June 13 and 14, respectively.

21. On June 19, 2019, Villarreal's email and Skype had been disconnected and his phone service had been rerouted to MacArthur. Villarreal then spoke to MacArthur and asked him what was going on. He told Villarreal to speak to Jamie Cox.

22. Upon returning to the office, Cox was waiting in Villarreal's office. Villarreal asked what was going on and Cox told Villarreal, "I have to let you go." Villarreal asked why and he said, "we're going in a different direction."

23. Villarreal then reminded Cox that he's never had an issue with conduct or performance and that they were in talks about making him the "national HR guy."

24. Villarreal asked Cox, "you wanted this?" Obviously perturbed, Cox responded, "No! You think I wanted this!? Look at me!" So Villarreal asked him who did want him fired. Cox then gestured to the atrium where MacArthur was standing while talking to other employees.

25. Villarreal then left.

PLAINTIFF IS ENTITLED TO PUNITIVE DAMAGES

26. Plaintiff would show that the acts and omissions of the Defendant were intentional, or were willful and malicious, or were in heedless and reckless disregard for the rights of Plaintiff and showed such utter and callous indifference and conscious disregard of the rights of Plaintiff as to constitute malice or gross negligence and be a proximate cause of the resulting damages and injuries sustained by Plaintiff. Further, Defendant's actions in terminating Plaintiff indicate malice towards Plaintiff and Defendant should be punished by an award of punitive damages. Thus, Villarreal is entitled to recover punitive damages against Defendant because they acted with malice or, at least, with reckless and/or conscious indifference as contemplated by Texas Labor Code Section 21.2585 and Chapter 451 of the Texas Labor Code.

FIRST CAUSE OF ACTION
RETALIATION

27. All paragraphs above are incorporated as if fully stated herein.

28. Defendant retaliated against Villarreal because he engaged in protected activity. For example, Defendant wrongfully terminated Villarreal because he reported sexual harassment.

29. Defendant engaged in the retaliation and/or the unlawful employment practices described above with malice and/or with reckless indifference to the statutorily protected rights of Plaintiff.

JURY DEMAND

30. Plaintiff respectfully requests that this matter be tried before a jury.

REQUEST FOR DISCLOSURE

31. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

PRAYER

32. Plaintiff respectfully prays that Defendant be cited to appear and answer herein and that upon a final hearing of the cause, that judgment be entered for Plaintiff against Defendant and that she be awarded the following:

- a. Back pay;
- b. Front pay;
- c. Compensatory damages, including but not limited to emotional pain and suffering and mental anguish damages;
- d. Punitive damages;
- e. Attorneys' fees;
- f. Pre-judgment interest;
- g. Post-judgment interest;

- h. Injunctive relief such as required training for Defendant's employees; and
- i. All other relief, in law or equity, to which Plaintiff may be justly entitled.

Respectfully submitted this 18th day of August 2020,

Clayton D. Craighead
Texas Bar No. 24065092
The Craighead Law Firm, PLLC
440 Louisiana, Suite 900
Houston, TX 77002
Phone: 832-798-1184
Fax: 832-553-7161
clayton.craighead@thetxlawfirm.com

By: /s/ Clayton D. Craighead
Clayton D. Craighead

ATTORNEY FOR PLAINTIFF
RICKY VILLARREAL

HCDistrictclerk.comVILLARREAL, RICKY vs. SUPERHEAT FGH SERVICES
INC

9/2/2020

Cause: 202049513 CDI: 7 Court: 164

APPEALS

No Appeals found.

COST STATMENTS

No Cost Statments found.

TRANSFERS

No Transfers found.

POST TRIAL WRITS

No Post Trial Writs found.

ABSTRACTS

No Abstracts found.

SETTINGS

No Settings found.

NOTICES

No Notices found.

SUMMARY**CASE DETAILS**

File Date	8/18/2020
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Case (Cause) Location	
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Case (Cause) Status	Active - Civil
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Case (Cause) Type	Retaliation
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Next/Last Setting Date	N/A
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Jury Fee Paid Date	N/A
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CURRENT PRESIDING JUDGE

Court	164 th
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Address	201 CAROLINE (Floor: 12) HOUSTON, TX 77002 Phone: 7133686264
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JudgeName	MICHAEL LANDRUM
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Court Type	Civil
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ACTIVE PARTIES

Name	Type	Post Jdgm	Attorney
VILLARREAL, RICKY	PLAINTIFF - CIVIL		CRAIGHEAD, CLAYTON DIXON

SUPERHEAT FGH SERVICES INC	DEFENDANT - CIVIL
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SUPERHEAT FGH SERVICES INC (A FOREIGN FOR- REGISTERED AGENT PROFIT CORPORATION)
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INACTIVE PARTIES

No inactive parties found.

JUDGMENT/EVENTS

Date	Description	Order	Post	Pgs	Volume	Filing	Person
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8/18/2020 ORIGINAL PETITION

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CRAIGHEAD,
CLAYTON DIXON

VILLARREAL, RICKY

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION CORPORATE	SERVICE ISSUED/IN POSSESSION OF SERVING AGENCY	ORIGINAL PETITION	SUPERHEAT FGH SERVICES INC (A FOREIGN FOR-PROFIT CORPORATION)	8/18/2020	9/2/2020				73782896	E-MAIL
211 E 7TH STREET SUITE 620 AUSTIN TX 78701										

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
91997719	eIssue: Citation Corporate		09/02/2020	2
91789210	Plaintiffs Original Petition and Request for Disclosure		08/18/2020	6
91791727	Request for Issuance of Service		08/18/2020	1



Marilyn Burgess

HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

Marilyn Burgess - District Clerk
Envelope
Filed:

Request for Issuance of Service

CASE NUMBER: 2020-49513 CURRENT COURT: 164th

Name(s) of Documents to be served: Original Petition and Request for Disclosures

FILE DATE: August 18, 2020 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: SUPERHEAT FGH SERVICES, INC.

Address of Service: 211 E. 7th Street, Suite 620

City, State & Zip: Austin, TX 78701-3136

Agent (if applicable) Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- ☒ Citation ☐ Citation by Posting ☐ Citation by Publication ☐ Citations Rule 100a
- ☐ Citation Scire Facias Newspaper
- ☐ Temporary Restraining Order ☐ Precept ☐ Notice
- ☐ Protective Order
- ☐ Secretary of State Citation (\$12.00) ☐ Capias (not by E-Issuance) ☐ Attachment (not by E-Issuance)
- ☐ Certiorari ☐ Highway Commission (\$12.00)
- ☐ Commissioner of Insurance (\$12.00) ☐ Hague Convention (\$16.00) ☐ Garnishment
- ☐ Habeas Corpus (not by E-Issuance) ☐ Injunction ☐ Sequestration
- ☐ Subpoena
- ☐ Other (Please Describe)

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP (phone) ☒ E-Issuance by District Clerk
(No Service Copy Fees Charged)
- ☐ MAIL to attorney at: **Note: The email registered with EfileTexas.gov is used to retrieve the E-Issuance Service Documents. Visit www.hcdistrictclerk.com for more instructions.**
- ☐ CONSTABLE
- ☐ CERTIFIED MAIL by District Clerk

☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: Phone:

☐ OTHER, explain

[WS6]

CAUSE NO. 202049513

RICKY VILLARREAL,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
SUPERHEAT FGH SERVICES, INC.,	§	
	§	
Defendant.	§	164th JUDICIAL DISTRICT

**DEFENDANT’S GENERAL DENIAL AND AFFIRMATIVE AND OTHER DEFENSES
TO PLAINTIFF’S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW Defendant Superheat FGH Services, Inc. and files its General Denial and Affirmative and Other Defenses in response to Plaintiff Ricky Villarreal’s (“Plaintiff”) Original Petition (“Petition”), and states as follows:

**I.
GENERAL DENIAL**

Pursuant to Texas Rule of Civil Procedure 92, Defendant generally and specifically denies all of the allegations in Plaintiff’s Petition including any and all supplements and amendments thereto, and demands strict proof thereof by a preponderance of the evidence. Further, Defendant denies the performance or occurrence of conditions precedent under Rule 54 of the Texas Rules of Civil Procedure.

**II.
AFFIRMATIVE AND OTHER DEFENSES**

Subject to and without waiving the foregoing General Denial, pursuant to Rule 94 of the Texas Rules of Civil Procedure, Defendant pleads the following affirmative and other defenses, to the extent such affirmative defenses are applicable:

1. Plaintiff's Petition, in whole or in part, fails to state a claim upon which relief may be granted.

2. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations governing commencement of administrative proceedings and of suit.

3. Any damages suffered by Plaintiff, which damage Defendant vigorously denies, is the result of Plaintiff's own action or inaction.

4. Defendant asserts that to the extent Plaintiff has suffered any actual damages, Plaintiff has failed to mitigate his alleged damages and any monetary claims asserted by Plaintiff are barred or due to be reduced; alternatively, any amounts earned in mitigation of damages or in unemployment compensation, should be credited or off set to any lost wage damages awarded.

5. Plaintiff's claims for damages and/or other relief are barred to the extent such claims exceed the relief recoverable under the statutes and legal theories under which Plaintiff brings suit.

6. Plaintiff's claims are barred, in whole or in part, by the doctrines of estoppel, waiver, consent, unclean hands and/or laches.

7. Defendant is entitled to the applicable limits, caps, exclusions, and/or offsets on damages, if any, set forth under the statutes and legal theories under which Plaintiff brings suit, as well as the TEXAS CIVIL PRACTICE AND REMEDIES CODE, as applicable, and hereby notifies Plaintiff of its intention to assert the damage limits, caps, exclusions and offsets.

10. Defendant has not taken, authorized, or ratified any action with discriminatory or retaliatory purpose or intent, but rather has acted lawfully and in good faith.

11. Defendant has not authorized any action prohibited by law and has not committed any unlawful employment practice.

12. Defendant has in place policies and procedures designed to prevent and correct promptly sexual harassment in the workplace.

13. Defendant did not act in willful or reckless disregard of Plaintiff's protected rights.

14. Plaintiff's claims are subject to setoff, offset, and/or recoupment.

15. Plaintiff's claims for exemplary damages are precluded and/or limited by the provisions in Chapter 41 of the TEXAS CIVIL PRACTICE & REMEDIES CODE. Further, an award of exemplary damages in this case would be violative of Defendant's due process rights under the 14th Amendment of the United States Constitution, of Defendant's right to be free from excessive fines under the United States Constitution, and of Defendant's equal protection rights under the United States Constitution.

16. Defendant reserves the right to amend its Answer; to add additional or other affirmative defenses; to delete or withdraw affirmative defenses; and to add such counterclaims as may become necessary after reasonable opportunity for discovery.

III. **CONCLUSION AND PRAYER**

WHEREFORE, Superheat FGH Services, Inc. requests that Plaintiff take nothing by way of this action and that all Defendant attorneys' fees, expenses and costs, together with such other and further relief, at law and/or in equity, to which Defendant may be justly entitled.

Respectfully submitted,

By: /s/ Rachel Z. Ullrich
Rachel Z. Ullrich
Texas Bar No. 24003234
rullrich@fordharrison.com
Nicole T. Herron
Texas Bar No. 24101907
nherron@fordharrison.com

FORDHARRISON LLP
1601 Elm Street, Suite 4450
Dallas, Texas 75201
Telephone: (214) 256-4700
Facsimile: (214) 256-4701

**ATTORNEYS FOR DEFENDANT
SUPERHEAT FGH SERVICES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the above and foregoing *Defendant's General Denial Affirmative and Other Defenses to Plaintiff's Original Petition* to be served electronically through the Court's electronic filing service provider to all counsel of record as listed below, on this 25th day of September 2020:

Clayton D. Craighead
The Craighead Law Firm, PLLC
440 Louisiana, Suite 900
Houston, Texas 77002
clayton.craighead@thetxlawfirm.com

/s/Rachel Z. Ullrich
Rachel Z. Ullrich

HCDistrictclerk.comVILLARREAL, RICKY vs. SUPERHEAT FGH SERVICES
INC

10/2/2020

Cause: 202049513

CDI: 7

Court: 164

DOCUMENTS

Number	Document	Post Date Jdgm	Pgs
92330099	Defendant's General Denial and Affirmative and Other Defenses to Plaintiff's Original Petition	09/25/2020	4
91789210	Plaintiffs Original Petition and Request for Disclosure	08/18/2020	6
91791727	Request for Issuance of Service	08/18/2020	1

**LIST OF ALL COUNSEL OF RECORD, PARTIES REPRESENTED
AND COURT INFORMATION**

1. Attorney for Plaintiff

Clayton D. Craighead
The Craighead Law Firm, PLLC
440 Louisiana, Suite 900
Houston, Texas 77002
clayton.craighead@thetxlawfirm.com

2. Attorneys for Defendant Superheat FGH Services, Inc.

Rachel Z. Ullrich
Texas Bar No. 24003234
rullrich@fordharrison.com
FORDHARRISON LLP
1601 Elm Street, Suite 4450
Dallas, Texas 75201
Telephone: (214) 256-4700
Facsimile: (214) 256-4701

3. The Name and Address of the Court from which the case is being removed:

Harris County District Court
164th Judicial District
201 Caroline St 12th Floor
Houston, Texas 77002

WSACTIVE LLP:11796457.1